No. 05-1500

FILED
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SUPREME COURT, U.S.

In The

Supreme Court of the United States

COUNTY OF LOS ANGELES,

Petitioner,

vs.

NORTHROP GRUMMAN CORPORATION,

Respondent.

On Petition For Writ Of Certiorari To The California Court Of Appeal

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REPLY BRIEF

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I. The Petition Raises a Compelling Issue.

Respondent's principle argument is that notwithstanding the *Northrop* decision below, federal contractor overhead could be made amenable to California property tax were the California Legislature simply to enact a statute allowing for a possessory interest assessment (i.e., a fractional interest assessment) of business personal property. However, this argument begs the question.

Here, the stipulated facts and the law (48 CFR §52-232-16(d)(6)) provide that the government does not take a reversionary interest in Northrop's overhead, and thus a fractional interest assessment of its property is not appropriate. On the other hand, the pertinent policy in California is that all property is to be uniformly and equally assessed unless otherwise required by law. (Cal. Const., art. XIII, sec. 1.)

The State Appellate Court opined in the case at bar that Northrop's overhead is federally-owned property that as a matter of federal law is categorically exempt from a state property tax assessment. The guiding principle in this area of the law is that an exemption from tax is the exception and not the rule. (Witkin, 9 Summary of California Law, 10th ed., Taxation, §4, pp. 28-29.) Consistent with this, the appropriate national policy should be that federal contractors bear their share of state property tax in the same manner and to the same extent as that borne by other business taxpayers in the jurisdiction, unless otherwise explicitly required by Congress. (*Id.*, §12, pp. 35-36.)

Federal contractor activity represents a significant portion of the overall national economy, and the competition for such activity at the state and local level is fierce.

However, the parameters for such competition should be explicit and consistent with law, not an auction of state sovereignty in a race to the bottom. (*See, e.g.*, Cal. Const., art. XIII, sec. 31.) The property tax is a chief revenue source for local government, including schools. The pertinent federal procurement laws should not lightly be interpreted to require the property tax exemption of federal contractors at the expense of the balance of the community. Thus, the petition raises an important issue worthy of this Court's review.

Respectfully submitted,

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